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VIA ECF

Honorable Judge Richard H. Kyle
United States District Court
District of Minnesota
772 Federal Building
316 N. Robert Street
St. Paul, MN 55101

August 8, 2012

Re: *Robyn Smith, et al. v. Blitz USA, Inc., et al.* (Case No. 0:11-cv-01771)

Dear Judge Kyle:

On June 11, 2012, Plaintiff filed her Second Amended Complaint [Docket No. 109]. On June 27, 2012, Defendant Kinderhook Industries, LLC ("Kinderhook Industries") filed its Motion to Dismiss or, in the alternative, Transfer or, in the alternative, Stay the claim against it (the "Motion to Dismiss") and provided notice that a hearing on the Motion to Dismiss would be held on August 24, 2012, at 10 a.m. [Docket Nos. 115, 116]. In accordance with D. Minn. LR 7.1(b)(1), Kinderhook Industries filed a memorandum and declaration in support of its Motion to Dismiss 42 days prior to the scheduled hearing date, on July 13, 2012 [Docket Nos. 117, 118].

In accordance with D. Minn. LR 7.1(b)(2), Plaintiff was required to file her Memorandum in Opposition to the Motion to Dismiss at least 21 days prior to the hearing, or by August 3, 2012. On August 6, 2012, Plaintiff filed a redacted Memorandum in Opposition together with 27 exhibits, 5 of which were filed under seal [Docket Nos. 120, 121]. On August 7, 2012, Plaintiff served an unredacted version of the Memorandum in Opposition on Kinderhook Industries [See Exh. A]. Today, August 8, 2012, Plaintiff filed the sealed exhibits with the Court and emailed a copy of the documents to Kinderhook Industries [Docket No. 123].

The Freshfields Bruckhaus Deringer US LLP partners include members of the Bars of the State of New York and the District of Columbia, Solicitors of the Supreme Court of England and Wales and Rechtsanwälte of Germany

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We write to request that the Court extend Kinderhook Industries' time to file its Reply Memorandum, or, in the alternative, to seek adjournment of the hearing currently scheduled for August 24, 2012.

In accordance with D. Minn. LR 7.1(b)(3), Kinderhook Industries' Reply Memorandum is due 14 days prior to the hearing on August 10, 2012 — just two days from the day that service was completed. Kinderhook Industries cannot properly Reply to Plaintiff's Memorandum in Opposition until it has had sufficient time to review the 22 exhibits that Plaintiff filed on Monday, consisting of 290 pages, the unredacted Memorandum of Opposition that Plaintiff served Tuesday, and the additional 5 sealed exhibits that Kinderhook received only one hour ago, consisting of an additional 48 pages.

Kinderhook Industries respectfully requests that it be given at least 7 days from today — as the date that service of Plaintiff's Memorandum in Opposition and accompanying exhibits was complete — to draft its Reply Memorandum, as contemplated by D. Minn. LR 7.1(b)(3). Plaintiff has expressly agreed to this extension. If the Court requires additional time to consider the papers, then Kinderhook Industries respectfully requests that the current hearing date be adjourned.

For these reasons, we respectfully request that the Court extend Kinderhook Industries' time to file its Reply Memorandum to August 15, 2012, or, in the alternative, that the Court adjourn the hearing date.

Respectfully,

Timothy P. Harkness / (MA)

Timothy P. Harkness

EXHIBIT A

From: Chris Brown [cbrown@wf.net]
Sent: Tuesday, August 07, 2012 1:26 AM
To: HARKNESS, Timothy (TXH); 'Hank Anderson'; Dan Haltiwanger
Cc: GUDKOV, Mila
Subject: Smith - Unredacted Opposition
Importance: High
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Smith Opposition - (Unredacted).pdf

Dear Mr. Harkness:

Attached please find the unredacted version of Plaintiff's Opposition Memorandum.

I'll get a copy of the sealed exhibits to you today as well. Thanks.

Chris Brown,
Paralegal to Hank Anderson

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